

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 04-1350-GMS
)	
DR. SYLVIA FOSTER, NURSE)	
ASSISTANT ROBERT N. GRAY,)	
MR. JOHNSON 1, MR. JOHNSON)	
2, LANCE SAGERS, and DAVE)	
MOFFETT,)	
)	
Defendants.)	

CERTIFICATION

I, Nancy Rebeschini, Esquire, pro se law clerk, and designated officer for depositions upon written questions held before me on January 8, 2008, do here by certify that:

1. The deposition of the defendant, David Moffett, was held on January 8, 2008, at 9:00 a.m., at the J. Caleb Boggs Federal Building, Wilmington, Delaware. Joseph Schoell, counsel for Robert N. Gray, David Moffett, and Lance Sagers, and Michael Ripple, counsel for Dr. Sylvia Foster were present at the deposition.

2. On that same date, David Moffett declared before me, an individual authorized to administer oaths, that his written answers were true and correct.

3. I read aloud each and every deposition question submitted by the plaintiff, Jimmie Lewis, for the deponent, David Moffett.

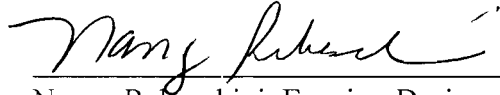
4. I personally observed the deponent, David Moffett, answer, in writing, the deposition questions.

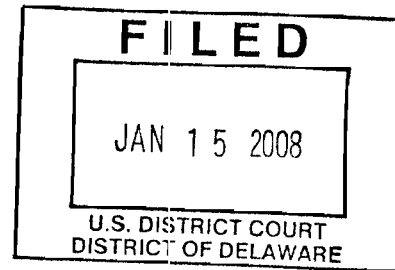
5. A true and correct copy of the written questions filed by the plaintiff, the original

written answers of the deponent, and written original objections made by counsel are attached hereto and are filed with the court, and copies shall be served upon the parties.

I, Nancy Rebeschini, certify under penalty of perjury that the foregoing is true and correct.

Executed this 14th day of January, 2008.


Nancy Rebeschini, Esquire, Designated
Officer



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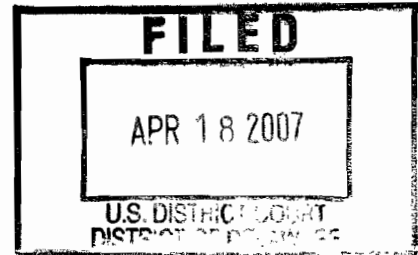
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS

V.

CA. NO. 04-1350 (GMS)

DR. SYLVIA FOSTER, ET AL.



WRITTEN DEPOSITION QUESTIONS
FOR DEFENDANT DAVID MOFFETT # 3 CC,
IN ACCORDANCE WITH THE HONORABLE JUDGE
GREGORY M. SLEET'S APRIL 9TH 07 ORDER
PURSUANT TO FED R. CIV P# 30

DATE: 4/16/07

Jimmie Lewis
SBI # 506622
DEL. CORR. CENTER
1181 PADDOCK RD
SMYRNA, DEL 19977

3 CC, P.1)

- 1.) WHO PROVIDES YOUR PHYSICAL SAFETY RESTRIANT TRAINING
- 2.) WHAT ARE YOU TAUGHT NOT TO DO WHEN PHYSICALLY RESTRAINING A PERSON
- 3.) DATING FROM 5/21/04 TO 6/25/04 THE COURSE OF THE PLAINTIFF'S STAY AT THE DELAWARE PSYCHIATRIC CENTER, WOULD YOU SAY THAT THE PLAINTIFF DISPLAYED NO EVIDENCE OF MOOD DISORDER
- 4.) DATING FROM 5/21/04 TO 6/25/04 THE COURSE OF THE PLAINTIFF'S STAY AT THE DELAWARE PSYCHIATRIC CENTER; WOULD YOU SAY THAT THE PLAINTIFF DISPLAYED NO EVIDENCE OF PSYCHOSIS
- 5.) IF DR. SYLVIA FOSTER GAVE AN ORDER THAT CALLED FOR YOU TO 4 POINT RESTRIANT THE PLAINTIFF, AND YOU DID NOT COMPLY, COULD YOU POSSIBLE BE FIRED FOR NOT COMPLYING.

3cc, p.2)

6.) DO YOU KNOW THE NAME OF ANY DELAWARE PSYCHIATRIC CENTER'S STAFF WHO YOU WITNESSED UTILIZE PHYSICAL FORCE TO SUBDUCE AND OR RESTRAIN THE PLAINTIFF AT THE D.P.C DATING FROM 5/21/04 TO 6/25/04, IF YES; PROVIDE THE PLAINTIFF WITH THE FULL AND CORRECT NAME OF SAID D.P.C STAFF MEMBER OR MEMBERS.

7.) DURING THE PLAINTIFF'S STAY AT THE DELAWARE PSYCHIATRIC CENTER DATING FROM 5/21/04 TO 6/25/04, DO YOU BELIEVE DR. SYLVIA FOSTER HAD THE AUTHORITY TO ORDER THE PLAINTIFF JIMMIE LEWIS 4 POINT RESTRAINED.

8.) DURING THE PLAINTIFF'S STAY AT THE DELAWARE PSYCHIATRIC CENTER DATING FROM 5/21/04 TO 6/25/04, DO YOU BELIEVE DR. SYLVIA FOSTER HAD THE AUTHORITY TO ORDER THE PLAINTIFF JIMMIE LEWIS TO BE INJECTED WITH PSYCHOTROPIC MEDICINE(S).

3 CC, P. 3)

- 9.) DURING THE PLAINTIFF'S STAY AT THE DELAWARE PSYCHIATRIC CENTER DATING FROM 5/21/04 TO 6/25/04, DID YOU BECOME AWARE OF THE PLAINTIFF BEING 4 POINT RESTRAINED
- 10.) DURING THE PLAINTIFF'S STAY AT THE DELAWARE PSYCHIATRIC CENTER DATING FROM 5/21/04 TO 6/25/04, DID YOU BECOME AWARE OF THE PLAINTIFF RECEIVING INJECTIONS OF PSYCHOTROPIC MEDICINES.
- 11.) REGARDING THE INCIDENT THE PLAINTIFF ~~ALLEGEDLY~~ CLAIMS OCCURED AT THE DELAWARE PSYCHIATRIC CENTERS MITCHELL BUILDING DINNING HALL DURING SNACK BREAK ON JUNE 14, 04, QUESTION, IN YOUR PROFFESIONAL OPINION SHOULD THE PLAINTIFF BEEN PLACED INTO ~~MENTAL~~ ISOLATION FOR SAFETY.
- 12.) IN YOUR OPINION, WHY DO YOU THINK A PSYCHIATRIST WOULD ORDER ~~FOR~~ A PERSON TO BE INJECTED WITH PSYCHOTROPIC MEDICINES.

3cc, p.4)

- 13.) UP UNTIL TO DATE, WHY HAVN'T YOU SUBMITTED CLAIM THAT THE PLAINTIFF JIMMIE LEWIS ALLEGEDLY THREATENED YOU, WAS VERBALLY ABUSIVE AND OR PHYSICALLY ASSAULTED YOU OR ANY SPECIFICALLY NAMED D.P.C PATIENT OR D.P.C STAFF MEMBER WHO WAS PRESENT DURING THE JUNE 14, 04 INCIDENT IN THE D.P.C'S MITCHEL BUILDING.
- 14.) CAN YOU RECALL IF YOU HAD TO PHYSICALLY SUBDUE AND OR RESTRAIN THE PLAINTIFF JIMMIE LEWIS AT THE D.P.C'S MITCHEL BUILDING ON EITHER OF THE FOLLOWING DATES. DURING HIS 5/21/04 TO 6/25/04 STAY AT THE DELAWARE PSYCHIATRIC CENTER :
6/6 - 13 - 14 AT OR ABOUT 8:00 PM, 14TH AT OR ABOUT 11:00 PM, 15TH - 21 - 22 - 24 / 2004.
PLEASE SPECIFICALLY NOTE SAID DATE OR DATES.

3cc, p. 5)

15.) YOU STATED ON OR ABOUT APRIL 9TH 07 THAT THE JUNE 14, 04 INCIDENT AT THE D.P.C.'S MITCHEL BUILDING DINNING HALL DURING SNACK BREAK REGARDING THE PLAINTIFF JIMMIE LEWIS OCCURED AT 8:45 PM.

TAKING INTO CONSIDERATION LANCE SAGERS APRIL 9TH 07 STATEMENT, QUOTE.

I WAS AT LUNCH OUT OF THE MITCHEL BUILDING FROM 8:00 PM TO 8:40 PM, UNQUOTE.

QUESTION, DOES YOUR CLAIM THAT THE AFOREMENTIONED INCIDENT OCCURED AT 8:45 PM, PLACE LANCE SAGERS INSIDE OF THE ~~MITCHEL~~ MITCHEL BUILDING AT THE TIME YOU STATED THE INCIDENT OCCURED.

3cc, p. 6)

16.) AT WHAT TIME AND DATE BETWEEN THE DATES OF 5/21/04 AND 6/25/04, DID YOU BECOME AWARE THAT DR. SYLVIA FOSTER DIAGNOSED THE PLAINTIFF AS MALINGERING, I.E., PRETENDING TO BE MENTALLY ILL.

CERTIFICATE OF SERVICE

I, THE UNDERSIGNED PLAINTIFF JIMMIE LEWIS
DOE HEREBY CERTIFY ON THIS 16TH, DAY OF APRIL,
2007, THAT I DID MAIL ONE TRUE AND CORRECT
COPY OF THE WRITTEN DEPOSITION QUESTIONS
FOR DEFENDANT DAVID MOFFETT # 3 CC,
BY U.S. POSTAL TO THE FOLLOWING:

CLERK OF THE COURT (GMS)
UNITED STATES DISTRICT COURT
844 N. KING ST, LOCK BOX 18
WILMINGTON, DELAWARE 19801

DATE: 4/16/07

Jimmie Lewis
SBI # 506622
DEL. CORR. CENTER
1181 PADDOCK RD
SMYRNA, DEL 19977

David A. Moffett
Jan. 8, 2008

David A. Moffett

1. Delaware Psychiatric Center
2. Taught not to apply too much pressure at persons joints, and not to restrict air passage at the mouth.
3. Do not recall.
4. Do not recall.
5. No.
6. None.
7. Yes.
8. Un aware of medical orders.
9. Yes.
10. Yes. aware of injections Not aware of the type of medicine.
11. Yes.
12. To deescalate the patients behaviors.
13. No need to.
14. Yes on 6/14/04.
15. Un aware of Mr. Sagers whereabouts during the stated time.
16. Do not recall.

~~17.~~

David A. Moffett

Joseph C. Schall

~~1/8~~ 1/8/2008 9:35 am

Counsel for Messrs. Gray, Moffett and
Segess

Moffett Questions

- #2) Objection to form of question - vague
- #3) Objection to form of question - calls for expert testimony beyond witness's expertise.
- #4) Objection to the form of question - calls for expert testimony beyond witness's training and expertise.
- ~~#7~~ Object to the form of question - calls for expert testimony beyond witness's training and expertise.
- #8) Object to the form of the question - calls for expert testimony beyond witness's training and expertise.
- #11) Object to form of question - calls for expert testimony beyond witness's expertise
- #12) Object to the form of question - calls for expert testimony beyond witness's expertise.
- #13) Object to the form of question - compound, vague and confusing.

Joseph Schmitt

Moffett #2

#16) Objection to the form of question -
calls for information beyond witness's
expertise and misstates the record

~~Michael Apple~~
rep: DA Foster

David Moffett

1/8/08

①.

②.

③.

④.

⑤. objection to form (Ripple)

⑥.

⑦. objection to form (Ripple)

- speculation, lack of foundation, calls for legal conclusion

⑧. objection to form (Ripple)

- speculation, calls for legal conclusion, lack of foundation

⑨.

⑩.

⑪.

⑫.

⑬.

①.

(14.)

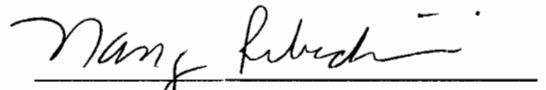
(15.)

(16.) objection to form (Ripple)
Cells for speculation, witness has no specialized training
to issue opinion, lack of personal knowledge

(2)
~~2~~

CERTIFICATE OF SERVICE

I hereby certify that on January 14, 2008, I caused to be electronically filed the attached Certification with the Clerk of the Court using CM/ECF, which will send notification of such filing to counsel for defendants. I further certify I caused a true and correct copy of the attached Certification to be served via U.S. mail on the plaintiff, Jimmie Lewis, SBI #506622, Delaware Psychiatric Center, Mitchell Building, 1901 DuPont Highway, New Castle, Delaware 19720, and the defendant Brian Johnson, Delaware Psychiatric Center, 1901 N. DuPont Highway, New Castle, Delaware 19720.



Nancy Rebeschini, Esquire, Designated
Officer